



December 10, 2004

President's Committee for Purchase from People
Who are Blind or Severely Disabled
1421 Jefferson Davis Highway
Jefferson Plaza 2, Suite 10800
Arlington, VA 22202-3259
Attn: John Heyer; Janet Yandik

Office of Management and Budget
Office of Information and Regulatory Affairs
Eisenhower Executive Office Building
725 - 17th Street NW
Washington, DC 20502

On behalf of the Huntsville Rehabilitation Foundation, we are writing to express our opposition to the proposed notice of rulemaking [Docket No. 2004-01-01] from the President's Committee for Purchase From People Who Are Blind or Severely Disabled. The proposed rulemaking on governance standards for central nonprofit agencies and nonprofit agencies participating in the Javits-Wagner-O'Day (JWOD) Program exceeds the scope of the Committee's authority and Congressional mandate.

The Huntsville Rehabilitation Foundation, Inc (doing business as Phoenix) has been a JWOD producing CRP since 1973. We currently employ almost four hundred individuals with disabilities on JWOD product and service contracts. We are a comprehensive; community based vocational rehabilitation organization and provide services to over 500 different individuals each year for the Alabama Department of Rehabilitation, the Department of Veteran Affairs and the Alabama Department of Human Resources. We are a CARF accredited organization and we are a member agency of the United Way of Madison County

Concerning the proposed regulations, the authorizing statute for the JWOD program clearly delineates the powers and responsibilities of the Committee (41 CFR 51-2.2, 41 U.S.C. § 46). These powers and responsibilities do not extend to governance standards or executive compensation. Both Congress and the Internal Revenue Service (IRS) have jurisdiction over these areas. The Committee is mandated with determining which commodities and services should be on the Committee's

procurement list and fair market prices, and informing federal agencies about the JWOD program.

As a participating JWOD agency, we would hope that the Committee would comply fully with the Congressional intent to provide employment and training opportunities for persons who are blind or have other severe disabilities and not delve into areas for which it lacks both the Congressional and statutory authority necessary to promulgate governance and other standards. The proposed rules are an overreaction to a few isolated incidents that will impact the entire community of participating nonprofit agencies, despite the Committee's own comment that the overwhelming majority of JWOD- affiliates central nonprofits agencies and nonprofit agencies operate in an ethical and accountable manner.

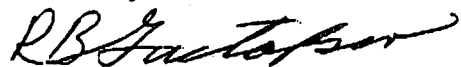
The statutory authority and regulations, as well as the legislative history, in addition to the applicable federal case law, do not support the Committee's actions. Furthermore, we have concerns understanding the rationale for the Committee to purport to assume regulatory authority over the governance standards for nonprofit, tax-exempt 501 (c) (3) organizations, because numerous federal entities exist to regulate these organizations. Also, many (if not most) CRPs also are associated with United Way, Goodwill International, Easter Seals, Jewish Vocational Services or other "oversight" organizations that monitor an individual CRP's compliance.

We believe that the proposed rules do not advance the Congressional intent of the enacting JWOD legislation, and would, if adopted, diminish the program's ability to increase employment opportunities for the blind and disabled. Such a rule could prohibit a division of a much larger institution (such as a state or a university or a large hospital) from participating in JWOD and denying jobs that would otherwise be available to people with disabilities.

The proposed rules raise Constitutional concerns as it places non-profit CRPs on a different playing field versus for-profits that perform government contracts. For-profits are not limited in their executive compensation yet they receive billions in federal contracts. In most instances, executive compensation is a decimal point of the total cost of a product or service and the Committee's obligation is determine if a price is a "fair market price"; not the appropriateness of each factor that comprises the price.

We respectfully request that the Committee withdraw these rules.

Sincerely,



Robert Gustafson
Chairperson of the Board of Directors

2939 Johnson Road SW
Huntsville, AL 35805-5844
256.880.0680
fax 256.880.2149
www.hsvrehab.org